

BOBBY SHAWN JANDE
 NAME
J25333
 PRISON NUMBER
Po Box 5004
 CURRENT ADDRESS OR PLACE OF CONFINEMENT
calipatria CA 92233
 CITY, STATE, ZIP CODE

FILED

2008 MAR -5 PM 3:34

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY Rm DEPUTY

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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

BOBBY SHAWN JANDE
 (FULL NAME OF PETITIONER)
 PETITIONER

v.

L.E. Scribner, warden
 (NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED
 PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE
 CALIFORNIA DEPARTMENT OF CORRECTIONS])

RESPONDENT

and

Edmund G. Brown, Jr.
 The Attorney General of the State of
 California, Additional Respondent.

'08 CV 0420 JLS POR

Civil No

(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2254
 BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack: Superior Court of California, County of Imperial 939 W. Main Street El Centro CA 92243
2. Date of judgment of conviction: JUNE 22, 2001
3. Trial court case number of the judgment of conviction being challenged: EHL-00868
4. Length of sentence: N/A

cf

5. Sentence start date and projected release date: N/A
6. Offense(s) for which you were convicted or pleaded guilty (all counts):
Possession of stolen property; Check fraud
7. What was your plea? (CHECK ONE)
- (a) Not guilty ☒
- (b) Guilty ☐
- (c) Nolo contendere ☐
8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)
- (a) Jury ☐
- (b) Judge only ☐
9. Did you testify at the trial?
☐ Yes ☐ No

DIRECT APPEAL

10. Did you appeal from the judgment of conviction in the **California Court of Appeal**?
☐ Yes ☐ No
11. If you appealed in the **California Court of Appeal**, answer the following:
- (a) Result: _____
- (b) Date of result (if known): _____
- (c) Case number and citation (if known): _____
- (d) Names of Judges participating in case (if known): _____
- (e) Grounds raised on direct appeal: _____
12. If you sought further direct review of the decision on appeal by the **California Supreme Court** (e.g., a Petition for Review), please answer the following:
- (a) Result: _____
- (b) Date of result (if known): _____
- (c) Case number and citation (if known): _____
- (d) Grounds raised: _____

13. If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to that petition:

- (a) Result: _____
- (b) Date of result (if known): _____
- (c) Case number and citation (if known): _____
- (d) Grounds raised: _____

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the California Superior Court?

☒ Yes ☐ No

15. If your answer to #14 was "Yes," give the following information:

- (a) California Superior Court Case Number (if known): EH C-00468
- (b) Nature of proceeding: Habeas Corpus petition
- (c) Grounds raised: Petitioners due process rights violated under 14th amendment of the U.S. Constitution and article I, section 7 subd (a) of California Constitution
- (d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No
- (e) Result: Denied
- (f) Date of result (if known): June 12, 2007

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the California Court of Appeal?

☒ Yes ☐ No

17. If your answer to #16 was "Yes," give the following information:

- (a) **California Court of Appeal** Case Number (if known): D051373
- (b) Nature of proceeding: Habeas Corpus petition
- (c) Names of Judges participating in case (if known) Huffman, Nares, and Irion
- (d) Grounds raised: Petitioners due process rights were violated under 14th amendment to the U.S. Constitution and Article I section 7 subd(a) of California Constitution.
- (e) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No
- (f) Result: Denied
- (g) Date of result (if known): November 6, 2007

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Supreme Court**?

☒ Yes ☐ No

19. If your answer to #18 was "Yes," give the following information:

- (a) **California Supreme Court** Case Number (if known): 5159392
- (b) Nature of proceeding: Habeas Corpus petition
- (c) Grounds raised: Petitioners due process rights violated under 14th amendment to the U.S. Constitution and Article I section 7 subd(a) of California Constitution.
- (d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No
- (e) Result: Denied
- (f) Date of result (if known): January 16, 2008

20. If you did **not** file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the California Supreme Court, containing the grounds raised in this federal Petition, explain briefly why you did not:

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

☒ Yes ☐ No (If "YES" SKIP TO #22)

(a) If no, in what federal court was the prior action filed? _____

(i) What was the prior case number? _____

(ii) Was the prior action (CHECK ONE):

☐ Denied on the merits?

☐ Dismissed for procedural reasons?

(iii) Date of decision: _____

(b) Were any of the issues in this current petition also raised in the prior federal petition?

☐ Yes ☐ No

(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?

☐ Yes ☐ No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present ***all*** other grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

GROUND FOR RELIEF

22. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. (e.g. what happened during the state proceedings that you contend resulted in a violation of the constitution, law or treaties of the United States.) If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) **GROUND ONE:** Lieutenant J. Sigler violated my due process rights, by finding me guilty of a serious rule violation 115, for possession of stolen property and check fraud, despite the complete devoid of ANY evidence I knew anything about the stolen money orders or checks.

Supporting FACTS: I am submitting this petition to challenge the finding of guilt on a serious rule violation 115 and the sanction of a loss of good time day credit of 150 days. In the interest of brevity, unbeknownst to me, apparently starting in April 2006 petitioners brother Bret Janice started mailing money orders and checks (he had stolen from the U.S. mail. Bret would physically alter the money orders and checks by writing my name over the original endorses name, but visually you can see the original endorses name behind my name, and other times, the original endorses name would be in plain sight in the "order to pay line". By accident bret found out I was in prison at Calipatria. I had not spoken to bret in 20 years; nor is bret approved to visit me in the California Dept. of Corrections and Rehabilitation. The money orders and checks went directly from bret to the trust office at Calipatria state prison. I never was in a position to view any of the money orders and checks.

When the money orders and checks arrived at the trust office, employee(s) working there in failed to recognize the money orders and checks were physically altered and deposited about 10 of them into my trust account. The employee(s) would immediately withdraw funds and forward them to state and federal courts, in which I owed funds. The employee(s) would then forward the empty envelopes to me, that the money orders and checks had

Did you raise **GROUND ONE** in the **California Supreme Court**?

☒ Yes ☐ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition): Habeas petition
- (2) Case number or citation: 5159392
- (3) Result (attach a copy of the court's opinion or order if available): Denied

arrived in, with written notations on them that funds had arrived and were deposited to my trust account, ready for me to spend.

The actions of trust office employee(s), of accepting and depositing obviously fraudulent money orders and checks to my trust account violated several sections of the California Code of Regulations, Title 15. Specifically, Title 15 § 3133 subd (b) (3) which states in relevant part, "all incoming... mail addressed to an inmate will be opened and inspected before delivery to the inmate. The purpose of inspection will be ... to prevent the introduction of contraband". The trust office employee(s) who did accept for deposit, the obviously fraudulent money orders and checks to my trust account failed to recognize they were in fact contraband and should have been referred to the appropriate facility captain for investigation. Specifically, Title 15 § 3140 subd (a) (1) which states in relevant part, "funds may be mailed to an inmate... The check or money order shall be made payable to the California Dept. of Corrections and Rehabilitation with the inmates last name and departmental identification number... Trust office employee(s) were blatantly incompetent, in as far as not recognizing the money orders and checks arriving at the trust office were fraudulent and none of them were made payable to the California Dept. of Corrections and Rehabilitation; consequently, none of them should have been accepted for deposit to my trust account.

When I received the empty envelopes from the trust office, I wrote brat at the return address asking him why he was mailing all of these funds to the institution. As a prisoner of the California Dept. of Corrections and Rehabilitation, I have no control over anyone, out in society who may choose to send mail to the institution. The administration officials at California State Prison have a duty as the gate keepers of the institution to verify the mail delivered to prisoner's contains no contraband. After brat mailed all 10 fraudulent money orders and checks to the institution, he finally wrote me a letter, explaining his fraud scam, but prison officials confiscated the letter upon its arrival at the institution and I did not receive the letter.

until after I received the serious rule violation 115 report. But why would Bret be explaining his fraud scam in the letter if I supposedly knew about it, already. The letter proves I knew nothing about the fraudulent money orders and checks arriving at the institutional trust office.

When I received the empty envelopes from the trust office with notations that funds had arrived, I believed the written notations on the envelopes were accurate and reliable information and decided to spend some funds in the prison canteen. Once I spent some of the funds I was issued a serious rule violation 115 for possession of stolen property and check fraud. At a impromptu hearing I was found guilty of the charges and sanctioned with a loss of 150 good time days; loss of all privileges; I owe the CDCR \$30.00 dollars; and I was placed in administrative segregation, based solely on the guilt finding of the serious rule violation 115 for possession of stolen property and check fraud, August 23, 2006. To be housed in administrative segregation for such a prolonged period, over 17 months now, is atypical and significant hardship in relation to ordinary prison life, which would trigger due process protections.

There is no evidence in the CDCR record that I knew the money orders and checks arriving at the trust office were stolen.

I submitted an administrative grievance 6021, No. CAL-A-06-02524 to appeal the guilt findings on the charges of possession of stolen property and check fraud. The employee of CDCR investigating the incident was Mr. Bell. Mr. Bell spoke to trust office technician W. Neciuk, as to why were the checks and money orders processed and deposited into your trust account when it appeared that the checks were altered and fraudulent? Mr. Neciuk stated, "we should have visually caught it in the beginning, due to you could tell inmate Jaseel's name was obviously typed over the original name printed on the check", in the second level response. Mr. W. Neciuk is admitting that they accidentally accepted and deposited the fraudulent money orders and checks onto my trust account. Why am I being held accountable for their

mistake? The California state prison investigative services unit refused to even refer the matter to the Imperial County district attorney office for prosecution on October 10, 2006. The CCR record is completely devoid of any evidence I knew the money orders and checks arriving at the institutional trust office were stolen. I have no control over other people, such as my brother Bret, and what he mails to the institution or what he decided to write on the outside of the envelopes he used to mail the fraudulent funds to the institution in. The Lieutenant sigler who conducted the hearing on the charges, based his decision on conjecture and suspicion, which fail to meet the same evidence standard or the state evidentiary standard, to revoke good time credits.

The charges I was found guilty of, possession of stolen property and check fraud are not S.H.U.-able offense pursuant to California Code of Regulations Title 15 § 3341.5 subd(9). The institutional classification committee uses the boilerplate language that I am a threat to the safety and security of the institution, to keep me in administrative segregation, when in fact they have no authority to house me in administrative segregation. The charges are not violent.

Petitioner would request the court reverse the finding of guilt on the serious rule violation and restore the 150 good time credit; remove the serious rule violation from my CCR file and destroy it; be released from administrative segregation, to be housed back in general population facility yard.

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?

☐ Yes ☒ No

24. If your answer to #23 is "Yes," give the following information:

(a) Name of Court: _____

(b) Case Number: _____

(c) Date action filed: _____

(d) Nature of proceeding: _____

(e) Name(s) of judges (if known): _____

(f) Grounds raised: _____

(g) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☒ No

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing: N/A

(b) At arraignment and plea: N/A

(c) At trial: N/A

(d) At sentencing: N/A

(e) On appeal: N/A

(f) In any post-conviction proceeding: N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding: N/A

26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

☐ Yes ☒ No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

☐ Yes ☒ No

(a) If so, give name and location of court that imposed sentence to be served in the future:

(b) Give date and length of the future sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

☐ Yes ☒ No

28. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 2254 habeas cases filed in this district, the parties may waive their right to proceed before a district judge and consent to magistrate judge jurisdiction. Upon consent of all the parties under 28 U.S.C. § 636(c) to such jurisdiction, the magistrate judge will conduct all proceedings including the entry of final judgment. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to consent to a magistrate judge as it will likely result in an earlier resolution of this matter. If you request that a district judge be designated to decide dispositive matters, a magistrate judge will nevertheless hear and decide all non-dispositive matters and will hear and issue a recommendation to the district judge as to all dispositive matters.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including the entry of final judgment, by indicating your consent below.

Choose only one of the following:

☒ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☐ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

29. Date you are mailing (or handing to a correctional officer) this Petition to this court: March 3, 2008

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

March 3, 2008

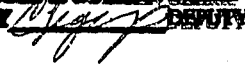
(DATE)

Phyllis S. Janoe

SIGNATURE OF PETITIONER

FILED

JUN 22 2007

SUPERIOR COURT CA.
IMPERIAL COUNTY
ROSE O. GULLEN CLERK
BY  DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF IMPERIAL

In re:

BOBBY JANOE

On Habeas Corpus.

Case No. EHC-00868

**ORDER DENYING PETITION FOR WRIT OF
HABEAS CORPUS**

Petitioner, an inmate currently incarcerated at Calipatria State prison, filed the instant proceeding on May 14, 2007. Petitioner alleges that he was denied due process of law in an administrative hearing in which he was found guilty of possession of stolen property and check fraud. He was found to have received altered or stolen checks at the prison from his brother, who apparently had been arrested for burglary of a post office. Petitioner has exhausted his administrative remedies.

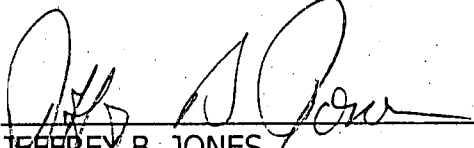
The disciplinary hearing was held on August 4, 2006. Petitioner testified at the hearing, and submitted declarations from his brother and mother as well as his own declaration. All declarations were to the effect that petitioner had no knowledge the checks were stolen or altered. Petitioner himself had not seen the checks, which had been deposited by prison staff.

1 The evidence at the hearing indicated that petitioner was aware of the checks to the
2 extent that they were deposited into his trust account in the amount of \$3771.71. Petitioner
3 himself had withdrawn some \$1100 from his trust account. Six empty envelopes indicating
4 correspondence between petitioner and his brother were found in his cell when it was searched.

5 The Court finds that petitioner was afforded due process of law. Further, the court's
6 review of the evidence is limited to the question of whether the decision is supported by "some"
7 evidence. *In re Powell* (1988) 45 Cal 3rd 894.

8 Inasmuch as the decision of the hearing officer was supported by some evidence, the
9 petition is denied.

10 DATED: June 20, 2007

11 
12 JEFFREY B. JONES
13 Judge of the Superior Court
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COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

FILED
-Deborah M. Kelly, Clerk
NOV 6 2007
Court of Appeal Fourth District

In re BOBBY S. JANOE

D051373

on

(San Diego County
Super. Ct. No. EHC 00868)

Habeas Corpus.

THE COURT:

The petition for writ of habeas corpus has been read and considered by Justices Huffman, Nares and Irion.

Petitioner was convicted of murder in 1994 for killing his wife and is presently incarcerated at Calipatria State Prison. Petitioner argues his due process rights were violated at an administrative hearing when he was found guilty of a serious rules violation for possession of stolen property and check fraud. He was assessed 150 days forfeiture of credit and the temporary loss of other privileges.

Petitioner received notice of the charges, a hearing and an opportunity to present evidence in his defense, a written statement by the factfinder of the evidence relied on and the reasons for the disciplinary action, and full administrative appeal of his rules violation. Petitioner has therefore been afforded all the process due to him. (*Wolff v. McDonnell* (1974) 418 U.S. 539, 563-567.)

To the extent petitioner argues the rules violation is supported by insufficient evidence because he had no knowledge the checks were altered or stolen, we only need to find "some evidence" to support the administrative decision. (*Superintendent v. Hill* (1985) 472 U.S. 445, 455-456; *In re Zepeda* (2006) 141 Cal.App.4th 1493, 1498.) This standard "does not require examination of the entire record, independent assessment of the credibility of witnesses, or weighing of the evidence. Instead, the relevant question is whether there is any evidence in the record that could support the conclusion reached by the disciplinary board." (*Superintendent v. Hill, supra*, 472 U.S. at pp. 455-456.) As explained in his administrative appeals and by the trial court, petitioner's trust account

S159392

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re BOBBY S. JANOE on Habeas Corpus

The petition for writ of habeas corpus is denied.

SUPREME COURT
FILED

JAN 16 2008

Frederick K. Ohlrich Clerk

Deputy

GEORGE
Chief Justice

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

(C.C.P. SEC. 446 & 2015.5; 28 U.S.C. SEC. 1746)

I, BOBBY S. JANE DECLARE UNDER THE PENALTY OF PERJURY THAT: I AM THE Declarant IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 3 DAY OF March, 2008, AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA 92233-5002

(SIGNATURE)

Bobby S. Jane
(DECLARANT/PRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC. 1013 (a) & 2015.5; 28 U.S.C. SEC. 1746)

I, Bobby S. Jane, AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA; I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM AN ~~AM~~ A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002, CALIPATRIA, CALIFORNIA 92233-5002

ON March 3, 2008, I SERVED THE FOREGOING:

Petition for writ of habeas corpus; Motion in forma pauperis

(SET FORTH EXACT TITLE OF DOCUMENT(S) SERVED)

ON THE PARTY(S) HEREIN BY PLACING A TRUE COPY(S) THEREOF, ENCLOSED IN A SEALED ENVELOPE(S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA 92233-5002

U.S. District Court
Clerk Office

Room 4240

886 Front Street

San Diego CA 92101-8900

District Attorney

940 W. Main Street

El Centro, CA 92243

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: March 3, 2008.

Bobby S. Jane
(DECLARANT/PRISONER)

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Bobby Shawn Janoe

Scribner, et al

2008 MAR -5 PM 3: 34

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Imperial
(EXCEPT IN U.S. PLAINTIFF CASES)

2254	DEFENDANTS
1983	
FILING FEE PAID	
Yes	No <input checked="" type="checkbox"/>
IFP MOTION FILED	
Yes	No <input checked="" type="checkbox"/>
COPIES SENT TO	
Court	Press

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) ATTORNEYS (IF KNOWN)

Bobby Shawn Janoe
PO Box 5004
Calipatria, CA 92233
J-2533

08 CV 0420 JLS-POR

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | (For Diversity Cases Only) | | PT | DEF | (For Plaintiff and One Box for Defendant) | | PT | DEF |
|---|---|---|---|---|--|----|-----|
| Citizen of This State | <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 | | | | |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 | | | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 | | | | |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSL (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input checked="" type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE March 5, 2008

SIGNATURE OF ATTORNEY OF RECORD

R. Miller

CR